

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MICHAEL WILLWERTH,

Plaintiff,

v.

OPEN TEXT, INC.,

Defendant.

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C.A. No.:

COMPLAINT

Plaintiff, Michael Willwerth, hereby files this complaint to recover unpaid wages.

PARTIES

1. Michael Willwerth is an individual who resides at 4 Bridle Path, Lakeville, Massachusetts.

2. Open Text, Inc. is an entity with a principal place of business located at 1301 S. Mopac Expressway, Suite 150, Austin, Texas.

JURISDICTION AND VENUE

3. Jurisdiction exists as to the use under 28 U.S.C. § 1331.

4. Venue is appropriate pursuant to 28 U.S.C. § 1392(b).

ALLEGATIONS

5. Mr. Willwerth worked at Open Text, Inc. ("Open Text") for nearly seven years. He first had acted as a business development manager at Stream Service Incorporated until it had been absorbed by Open Text. He continued to perform the very same responsibilities at Open Text after the acquisition.

6. In his position as a business development manager, he performed very well. He facilitated the sale of mobile products. He provided important information to potential customers, met with customers, assisted sales people as to their efforts, and helped close numerous sales of mobile and other products.

7. In 2012, Open Text transferred Mr. Willwerth to the SAP department. In that department, he continued to work on the sale of Enterprise Resource Products, which he had managed before his transfer. In addition, he assumed responsibilities in the SAP department as to other products as well.

8. Mr. Willwerth had been entitled to receive a bonus for his SAP work which he completed during the company's third quarter which ended on March 31, 2013. He had been told that he would receive a bonus as to his work.

9. The manager of SAP, Bob Caldwell, also constantly told Mr. Willwerth and the other members of the SAP department that they would receive a bonus based on their work in the department.

10. After March 31, 2013, however, Open Text informed Mr. Willwerth that he would not be receiving a SAP bonus.

Count I
(Violation of Mass. Gen. Laws Ch. 149, §§ 148, 150)

11. Mr. Willwerth incorporates the allegations of paragraphs 1 through 10 as if fully set forth herein.

12. Open Text, Inc. has failed to pay Mr. Willwerth more than \$16,250.

13. Mr. Willwerth is entitled to such payment.

14. As a result, Mr. Willwerth is entitled to an amount exceeding \$48,750 plus payment of his attorney's fees.

Count II
(Fair Labor Standards Act, 29 U.S.C. § 201)

15. Mr. Willwerth incorporates the allegations of paragraphs 1 through 14 as if fully set forth herein.

16. Open Text, Inc. has failed to pay Mr. Willwerth more than \$16,250.

17. Mr. Willwerth is entitled to such payment.

18. As a result, Mr. Willwerth is entitled to an amount exceeding \$48,750 plus payment of his attorney's fees.

Count III
(Breach of Implied Covert of Good Faith and Fair Dealing)

19. Mr. Willwerth incorporates the allegations of paragraphs 1 through 18 as if fully set forth herein.

20. Mr. Willwerth earned his bonus for work which he completed while employed by Open Text.

21. Open Text has refused to pay him the amount owed.

22. Open Text's action constitutes a breach of the implied covenant of good faith and fair dealing as to Mr. Willwerth's employment.

23. That breach has caused Mr. Willwerth to suffer damages in an amount exceeding \$16,250.

WHEREFORE, Mr. Willwerth prays that the Court:

1. Enter judgment in favor of Mr. Willwerth and against Defendant on Count I in an amount exceeding \$48,750.

2. Enter judgment in favor of Mr. Willwerth and against Defendant on Count II in an amount exceeding \$48,750.

3. Enter judgment in favor of Mr. Willwerth and against Defendant on Count III in an amount **exceeding** \$16,250.

4. Award Mr. Willwerth his attorney's fees.

5. Award Mr. Willwerth interest and costs, which include attorney's fees.

6. Award such other and further relief as the court deems appropriate.

PLAINTIFF DEMANDS A TRIAL BY JURY ON ALL CLAIMS SO TRIABLE.

MICHAEL WILLWERTH,

By his attorney,

LAW OFFICE OF
CHRISTOPHER J. TROMBETTA

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Dated: October 24, 2013